

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

March 24, 1977  
10:00 A.M.

Council Chambers  
301 West Second Street

The meeting was called to order with Mayor Friedman presiding.

Roll Call:

Present: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino

Absent: None

APPROVAL OF MINUTES

Councilmember Himmelblau moved that the Council approve the Minutes for the Regular Meeting of March 17, 1977, and Special Meeting of March 11, 1977. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn

Noes: None

Not in Council Chamber when roll was called: Councilmember Trevino

PRIVATE EMPLOYMENT AGENCY WEEK

Mayor Friedman proclaimed the week of March 26 to April 1, 1977, as PRIVATE EMPLOYMENT AGENCY WEEK, urging all citizens to patronize the efforts of private employment agencies that assist individuals in choosing a field of endeavor to utilize abilities and talents to the fullest. Mr. Charles Evins accepted the proclamation and thanked the Mayor on behalf of the private employment agencies of Austin.

## ASTRONOMY DAY

Saturday, March 26, 1977, has been proclaimed ASTRONOMY DAY in Austin. A proclamation was presented to Dr. Harlan Smith, Director of the McDonald Observatory by Mayor Friedman. It urges all citizens to join in celebrating the occasion by attending the free program of astronomical films, information lectures, and exhibits; and telescopic observations of the moon and planets, at R. L. Moore Hall on the University of Texas campus, beginning at 2 P.M. Dr. Smith thanked the Mayor for the proclamation.

## AUSTIN DISTRICT SPECIAL OLYMPICS DAY

Mayor Friedman read a proclamation declaring March 26, 1977, as AUSTIN DISTRICT SPECIAL OLYMPICS DAY. A day, the proclamation read, on which nearly 1,000 mentally retarded students from 20 Austin schools are made equal in ability in athletic competition in an annual event. Mayor Friedman called on all citizens to join him and members of the Austin City Council in applauding these special contestants to a victory far greater than athletic achievement.... a victory of spirit which wins in all events. Accepting the proclamation with their thanks, were Robert Strait, Matt Ramsey, and Richard Rankin.

## SUPERWALK '77 WALKATHON DAY

A proclamation, read by Mayor Friedman, proclaiming March 27, 1977, as Superwalk '77 Walkathon Day, recognizes the hundreds of young people in Austin who are joining the annual Capital Area March of Dimes Superwalk to raise funds for the fight to protect the unborn and the newborn. The proclamation urges all citizens to support the young peoples' efforts and the March of Dimes, to bring an end to birth defects. Burton Eubanks, Walkathon Chairperson, thanked the Mayor for the proclamation.

## RAY ANTHONY OWENS DAY

Sunday, March 27, 1977, has been proclaimed RAY ANTHONY OWENS DAY in honor of the young man who has been actively involved in the Austin Boys' Club for eight years, and has demonstrated an outstanding characteristic of leadership in service to the community, school, church home and club. Ray Owens, along with nine other finalists, will attend activities in Washington, D. C., in his bid for the National Boy of the Year Award, presented by the President of the United States. Ray Anthony Owens accepted, with his thanks, the proclamation read to him by Mayor Friedman. Also present were Ray Owens' mother and friends and Board members from the Boys Club.

## STUDENTS RECOGNIZED

Mayor Friedman called attention to the presence of students in the audience. They were a fifth year class from Hill Elementary School and Mr. Porter's government class from Lanier High School.

## LOST CREEK MUNICIPAL UTILITY DISTRICT

Elbert Hooper, an attorney, appeared before the Council representing the Lost Creek Municipal Utility District. He was requesting approval of the following items:

1. Revised agreement on the creation of Lost Creek Municipal Utility District between the City of Austin, Mutual Savings Institution and Lost Creek Municipal Utility District.
2. Amended water supply contract between the City of Austin, Mutual Savings Institution and Travis County Water Control & Improvement District No. 10 for water supply to the area within Lost Creek Municipal Utility District.
3. Preliminary approval of one million dollars Waterworks and Sewer System Combination Unlimited Tax and Revenue Bonds, Series 1977, of Lost Creek Municipal Utility District.

Mr. Hooper said the District was created by consent of the City of Austin in 1972 and by order of the Texas Water Rights Commission. At the time of its creation, the City imposed certain restrictions which would require that the land owners and developers in the area would make contributions to the financial stability of the district and would make certain contributions of park land and impose other requirements. The pattern used by the City followed the pattern the City used in developing the Lakeway Utility District. The City developed a more rigid set of requirements for the district as exemplified through the requirements established for Williamson County Municipal Utility District No. 1, which serves Anderson Mills subdivision. The developers agreed, at the time of the formation of the District, that they would resubmit their district creation agreement to the Council so it could be brought into line with a later policy of the City which was established in 1973 in connection with the Williamson County District. The purpose of the revised agreement (Item 1 above) is to bring the creation of the Lost Creek District in line with the district creation agreement with Williamson County Municipal Utility District No. 1.

The second item requested, continued Mr. Hooper, relates to the water supply contract between the City of Austin, Travis County Water Control & Improvement District No. 10, and Mutual Savings Institution, which initially was adopted and approved by all parties in December of 1973. It was a four-year contract. The reason for a four-year term was because it was thought the City would have a water line through the area or adjacent to it during that period of time. Then the development would tie on to the City water line. Construction of the line in question has been postponed and in order to continue to operate and serve water in the area, it is proposed the water supply contract be extended for 30 years. The contract submitted to you today, said Mr. Hooper, is subject to termination in the event the base contract between Travis County District 10 and the City is terminated. The contract also provides that when the City does have a water supply available in the area, the City may require the Lost Creek subdivision to disconnect from District 10 and tie on to the City of Austin water supply. It further requires that a contribution toward the cost of the facility that would serve the subdivision would be in the amount of \$100,000.00.

The reason for the third request ties into the first two. The district, said Mr. Hooper, is now in a position to go forward with the first bond issue. Proceeds from it will be used to purchase the existing wastewater treatment plant and water supply facilities and wastewater collection facilities now serving the District. The third item requests the approval of the first issue of bonds in the amount of \$1,000,000.00. This request is for the City's preliminary approval and the City has the right not only under the present district creation agreement, but under the proposed revised agreement, to approve the terms and conditions of the bonds and the interest rate the bonds shall bear. After the bids of the bonds have been received, they will be brought back to the City to determine terms of the bonds and interest rate before the bonds are actually issued. The anticipated date of the bond sale is April 28th, Mr. Hooper said.

Councilmember Linn asked, "Who represents Water District No. 10?" Mr. Hooper said he did, but not on this matter. Councilmember Linn asked if on this matter he represented Lost Creek Municipal Utility District. Mr. Hooper answered affirmatively. Councilmember Linn said, "You represent both of those districts. Do you represent Los Altos condominium project?" Mr. Hooper said that he did. Councilmember Linn wondered if this contract would have any bearing on that contract. Mr. Hooper said, "No. Lost Creek District is southwest of the City off of Loop 360 and Los Altos is the other side of Red Bud Trail." Councilmember Linn asked if either of the districts he represented were related to any development he represented. Mr. Hooper answered in the negative.

RUSSELL COLLINS, Westlake Hills resident, said he was waiting to see who represented Water District No. 10. He said there didn't seem to be anyone despite the fact they pay Mr. Hooper something over \$1,000.00 for legal counsel in this water district. "Did you say that Mr. Hooper is your attorney for Water District 10?" asked Councilmember Linn. That was my understanding, said Mr. Collins. Mayor Friedman indicated this was in line with what Mr. Hooper had said, that he does represent Water District No. 10, but not in this matter. The Mayor went on to say that he presumed Water District No. 10's Board of Directors had agreed with this presentation and do not need representation here today. Mr. Collins went on to say that several of them had tried to see a copy of the 30-year contract and they had been unable to. He said he thought it should be available to anyone who wanted to see it prior to action by the Council, therefore he was requesting a 30-day postponement on the order of the Council and make the contract available.

Mayor Friedman asked Mr. Hooper what the objection was to letting people see the contract. Mr. Hooper replied that he was not aware of the situation and had no objection to Mr. Collins reading the proposed contract. He went on to say that both the District and Mutual Savings had approved the contract. He said the District was ready to move forward with its sale of bonds.

Councilmember Linn asked if the Board had approved his representation of Lost Creek District at the meeting and not District 10. Mr. Hooper answered it wasn't approved by Lost Creek District because they are not a party; it was reviewed by them since they will fall heir to it. "What about Water District No. 10, did they approve of not having representation here today?" "I do not know, I did not consult District 10 on that," he answered. "So, their Board of Directors gave you no instructions?" "No" he replied. "The Board has approved the contract", he continued, "and has signed it."

Motion

Councilmember Linn made a motion that there be a 30-day delay before any action is taken. Councilmember Trevino seconded the motion.

HENRIETTA JACOBSON, resident of Water District No. 10, wanted to know if the taxpayers and/or the City of Austin would have any obligations to meet terms of the bonds if they proved to be in default. Mayor Friedman said the City would not be obligated. She said she wondered since the City of Austin has approval authority. Mr. Hooper said the Lost Creek District is totally separate from and outside of Water District No. 10 and he did not see how it would have any risk on the bonds that Lost Creek might issue. JACKIE JACOBSON said there is a question about Mr. Hooper's participation in Water District No. 10 and the drawing of the contract. Mr. Hooper said he wrote the contract based on the prior contract, which had been drafted before his being hired by District 10. He said the contract consists of the instructions given to him by members of the Board.

Councilmember Lebermann asked for the date of the sale again. Mr. Hooper replied April 28. Councilmember Lebermann said there had to be adequate public notice prior to the bond sale. Mr. Hooper replied the notice of bond sale had to be published two weeks prior to the sale. Mayor Friedman asked Mr. Hooper if it would be all right to postpone decision until April 14.

(At this point Mr. Hooper became faint and had to be assisted from the microphone. The Emergency Medical Service was called.)

Mayor Friedman called the meeting back to order and said there was no choice but to postpone until April 14.

Substitute Motion

Councilmember Lebermann made a motion, and Councilmember Hofmann seconded, to have the request brought back April 14, 1977 at 10:00 a.m.

Mayor Friedman then addressed Stuart Henry, Mr. Hooper's law partner, and said the sale could still be advertised for April 28, 1977, and if permission is not granted on the 14th, the sign could be pulled down. Mayor Friedman said the residents of Water District No. 10 had not seen the contract, and were concerned about their Board of Directors not consulting them. He said this would give everyone time to get things together.

Councilmember Linn asked if there was any reason for the rush for the bond sale. Mr. Henry said he knew of no reason for the rush except that they had been working on the issue for five years and wanted to sell the bonds on schedule if they could.

Councilmember Trevino withdrew his second to the original motion.

Roll Call on Substitute Motion

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

## BOCA CHICA APARTMENTS SEWER LINE PROBLEM

MR. TIM HERMAN, law partner of Mr. Robert H. Hughes, Attorney for the City of Westlake Hills, appeared to request an agreement between the City of Austin and Westlake Hills to allow Boca Chica Apartments to hook on to the sewer line which serves the condominiums built by Harvey Lane on Westlake Drive. He said that even if the septic system of the Boca Chica Apartments is completely rebuilt, there would still be a surface effluent problem with regard to Bee Creek. He said the hook-up would be paid by the apartments and there would be no cost to the City of Austin. Councilmember Himmelblau asked if that property would be willing to ask for de-annexation from Westlake Hills and annexation to the City of Austin. He said they would be willing but that there were only 4.76 acres involved and there is a 10-acre limitation on de-annexation. Mayor Friedman asked if Westlake Hills had any objection. Mr. Herman said he did not know, but if it was the only alternative, they would have to pass it and let Westlake Hills hash it out.

TOM LOW, manager of the Boca Chica Apartments, appeared to represent the owner of the apartments, Mr. Scott Vandemark. He said he had been manager since 1975 and is aware that there has been a problem as far back as 1973. At that time they were notified by the Travis County Health Department that they no longer met the inspection standards. They have tried to meet the standards in every way but are unable to under present conditions. Councilmember Himmelblau wondered why the Health Department has not closed down the apartments. Mr. Low said he did not know. He went on to define their septic system. Councilmember Linn asked City Manager Davidson to check to see why the apartments had been allowed to exist so long with effluent dumping into Bee Creek and Lake Austin. Mr. Davidson said he would be happy to do so. Mayor Friedman stated that if he remembered correctly there was discussion that as soon as the Los Altos project began putting in their sewer line, that Boca Chica wanted to tie into it. Mayor Friedman wanted to know if they had contacted Westlake Hills concerning de-annexation in order to join the City of Austin services. Mr. Low said he did not know ...perhaps their attorney, Mr. Latting, would know. Mayor Friedman asked Mr. Jerry Harris, City Attorney, to contact Mr. Latting and get a chronological order of what has proceeded. Mr. Low informed the Council that Westlake Hills had been after them to do something, and he felt that they would agree with Boca Chica attaching to the sewer line as the only solution to the problem.

Councilmember Himmelblau suggested that the Council allow two weeks on the issue to allow the City's Legal Department to look into it. Mayor Friedman said he would like to take that suggestion a step further and have the Council go on record as denying permission to attach and give Westlake Hills the option to de-annex. Mr. Low wanted to know if Austin would be willing to annex them if Westlake de-annexed. He said they did not want to be in the twilight zone. Mayor Friedman told him not to worry. If Westlake Hills wanted them to do something about the sewage problem, there should be no problem in annexing with the Los Altos tract.

MRS. HENRIETTA JACOBSON said the Westlake Hills Council has not ruled on whether it would de-annex Boca Chica because the State law provides a city cannot de-annex a tract under 10 acres in size. She said rather than do as Mayor Friedman suggested, perhaps it would be better if the Legal Department could find out about the possibility of two cities going to court to do this.

Mayor Friedman said he was sure Westlake Hills would go along with anything in order to solve the problem, but felt they would not act until they were assured the Council would not act.

After further discussion of the past history of the problem and Mayor Friedman's reiteration of the annexation, the following motion was made.

Motion

Councilmember Lebermann moved that the Council instruct the City Attorney to communicate with Westlake Hills pursuant to their decision to de-annex and to work with them to see if there are exceptions to the 10-acre law whereby Austin can annex the tract and extend services to them. The motion was seconded by Councilmember Himmelblau.

Friendly Amendment

Mayor Friedman made a friendly amendment that at this time the Council reject any permission for Boca Chica Apartments to hook up to the Los Altos sewer and no action be taken until de-annexation takes place. Councilmembers Lebermann and Himmelblau accepted the friendly amendment.

Roll Call on Motion with Friendly Amendment

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

PARADE PERMIT

Councilmember Linn moved that the Council approve the request for a Parade Permit from Mr. Douglas Kellar for Texas Farmworkers Union, Inc., from 12:00 noon to 4:00 p.m., Sunday, April 3, 1977, beginning from St. Edward's University, down Congress Avenue to Capitol Building. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem  
Snell, Councilmembers Himmelblau, Hofmann, Lebermann  
Noes: None

PUBLIC HEARING ON THIRD YEAR HCD GRANT APPLICATIONS

At 10:30 A.M. Mayor Friedman opened the public hearing on Housing and Community Development needs for the third year HCD grant application. Mayor Friedman noted that this was a public input hearing and not a detailed listing of projects. Mr. Lillie said this was correct; the purpose of the hearing was to get citizen requests for projects in addition to or in support of those identified at neighborhood meetings earlier. He said there would be a second action no later than May 5, 1977, in order to submit application for state and federal consideration prior to the funds being available in September.

LESLIE L. GAGE appeared in support of an application filed with the Council by the Paramount Theatre requesting \$150,000.00 of HCD funds. He called attention to the historic nature of the theatre, it lends itself to the preservation of downtown Austin and to the performing arts. Councilmember Linn pointed out the funds were really needed...she had been there one night when a whole section of lighting collapsed. Councilmember Himmelblau said she understood they had a 30-year lease but that the Foundation might receive title in the near future to the facility. Mr. Gage said that was correct. Councilmember Trevino recalled the repairs requested for the Paramount when there had been an allotment of \$1.5 million in HCD funds. There had been some questions as to whether they would qualify under federal regulations and he wanted to know if the matter had been clarified. Mr. Gage said it had.

GEORGE KING, representing the Southeast Austin Growing Neighborhood of Today, presented the following request:

"There are at present in excess of 1500 homes in our neighborhood, with plans of construction of 500 more to be completed by mid-summer. At present there are in excess of 2000 vehicles entering and leaving our neighborhood daily. This includes heavy construction equipment, cement trucks, dump trucks, lumber trucks, school buses and construction crew vehicles. All of this traffic must flow through our residential streets coming and going. Each and every day that our children leave our homes, whether to go to school or to go out and play, we live in fear for their safety.

There is presently a four-lane divided roadway extending westward from Nuckles Crossing to Jacaranda Drive. This roadway is East Stassney Lane. The distance from Jacaranda Drive to IH 35 Frontage Road is a mere 3/10 of a mile. When this road is completed, it could conceivably divert 75 per cent of this traffic from our residential streets.

We therefore beseech you to approve our request for the funds needed to cover the cost of engineering for the completion of East Stassney Lane. The amount of HCD funds requested is \$60,000. The acquisition of these funds could expedite the much needed completion of East Stassney Lane by as much as 9 months. During this 9-month period, our children might well pay the dearest price, their lives.

This matter was discussed at length during the Urban Transportation Commission meeting on 16 March 1977. Commission members Sally Wittliff, Ella Salazar, Joanna Cornell, Charles Bergstrom, Phyllis Rothgeb, and Chairman Bill Moore were present at that meeting and have since been contacted by telephone by either myself or one of my constituents. All Commission members contacted have individually confirmed the Commission's unanimous support of our request."

Mayor Friedman asked him if the \$60,000.00 figure requested came out of Urban Transportation's figures. Mr. King said it had. Councilmember Trevino questioned the amount for utility relocation and pavement. Mr. King answered they intended to try for Capital Improvements Program for the rest. He felt if the engineering part was started, then they could get into CIP requests and speed up the process. The Mayor informed him he would need to get total cost estimates.



CARL TURNER, member of the Parks and Recreation Advisory Board, said he was there to request the Council's approval for recreational facilities that have been submitted. He specifically urged the Council to approve the funds to complete the Givens project.

DAVE MENZIE, President, Wooten Elementary School P.T.A., and also President of the Wooten School Neighborhood Association, spoke to the Council. First of all, he said, he wanted to compliment the Council and the working government through the offices of Urban Transportation, Joe Ternus and staff, for helping their area overcome some difficult transportation problems.

As a school system and as a neighborhood association, Mr. Menzie said their concern is that their area, Wooten Park bounded by Burnet Road and Highway 183, North Lamar and Pasadena Drive, has had no development by Parks and Recreation for the past ten years. He pointed out they had 1 slide, 2 swings and 1 merry-go-round to serve an area of 8,500 people. In comparison, Mr. Menzie continued, other areas have tennis courts, pools, playgrounds, etc. He asked that their area be considered for a playground, or a pool or lighted tennis courts, or even a community activity center that people of all ages could enjoy. He wants the area beautified so residents will continue to live there and not move for lack of something to do. Mayor Friedman told him they needed to get a complete listing from Parks and Recreation for potential CIP funds for the area. He said there was a limited amount of money from CIP and HCD, but they could pinpoint what can be done. Mr. Menzie had found out from Parks and Recreation that a lighted tennis court is scheduled for sometime between 1979 and 1981. He said he had found out from past P.T.A. Presidents it had been scheduled for a long time and the money was never there.

JAMES STRICKLAND appeared to suggest the implementation of three suggestions which, according to his studies, fall with the scope of "activities eligible for assistance" under the Community Development Act.

1. Utilize a portion of HCD funds to repair and renovate physical facilities of programs now partially funded through the Department of Human Resources.
2. Use HCD funds to provide for "phase-in" human services, rather than the "totally qualified" or "not qualified" system that many human services must now employ.

RICHARD HARE, Austin-Travis County MHR Citizens Advisory Committee, appeared to request funds for repair of the Darrell Royal Workshop and Adult Activity Center.

STACEY LOPEZ, representing the East First Advisory Committee, appeared to request money for the construction of the East First Street Out-patient Clinic/Day Treatment Center in the amount of \$280,000.00. This includes purchase of 19,000 square feet of land for \$40,000.00 and the construction of a 9,500 square foot building for \$240,000.00. He explained the report to the Council, which they had received. He said the outpatient clinic has special programs for all ages. Councilmember Himmelblau asked if the newly planned facility at 6th and Comal would be too far away from his target area when it is built...if space were included as a treatment center. Mr. Lopez said it would take care of the same geographic area and thought the 6th and Comal facility, if built, would be an appropriate place for them, but he would clarify the situation by working with the sub-committee.

SAMUEL GREGGS, representing Rosewood Advisory Committee, said he was not prepared to make a presentation, but will make a request at another hearing.

DORIS TILLMAN, Executive Director, Austin Association of Retarded Citizens, and VIRGINIA LAPINE, President, Austin Association of Mentally Retarded Citizens, both appeared before Council. Ms. Tillman said they were there to urge the Council to approve of a Darrell Royal Workshop and Adult Activity Center. She said from her observations there was a dire need for such a facility.

MRS. WALTER RICHTER appeared to request funds for repairs to the Elisabet Ney Museum. Mayor Friedman told her the Council had never been able to determine who runs the museum...he has had no response to letters mailed to the proper sources.

JIM COX appeared before the Council in support of James Strickland's requests. He urged that prevention dollars be spent to increase services to the existing epople. He is adverse to growth and expansion.

MARCEL ROCHA, member of the Mexican-American Chamber of Commerce appeared to say he was not asking for any funds at this time, but wanted to thank the present Council for the foresight of setting up the Office of Minority Business in the Purchases and Stores Department of the City of Austin. He said there had been good progress with the present Council and asked for favorable consideration when the next appeal is made.

Mayor Pro Tem Snell moved that the Council close the public hearing on Housing and Community Development needs for the third year HCD grant application. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann, Lebermann, Linn  
Noes: None

#### RENTAL AGREEMENT

Councilmember Linn moved that the Council adopt a resolution to enter into a rental agreement with the Southern Pacific Railroad for a materials unloading pit under tracks near East 4th Street and Waller, requested by the Street and Bridge Division of Public Works Department. (Annual Rental rate: \$75.00) The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None

#### RELEASE OF EASEMENTS

Councilmember Himmelblau moved that the Council adopt a resolution to authorize the release of the following easement:

A ten (10.00) foot Sanitary Sewer Easement that traverses Lots 2 and 3 of Riverside Divide, Section 2, a subdivision in the City of Austin, Travis County, Texas. (Requested by Jeryl D. Hart, representing Hixon Properties, Inc., owners of Riverside Divide Section 2.)

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Mayor Friedman

Noes: None

Not in Council Chamber when roll was called: Councilmember Trevino

Councilmember Himmelblau moved that the Council adopt a resolution to authorize the release of the following easements:

Two ten (10.00) foot Public Utilities Easements, being out of and a part of Lot 17, Block 11, South Meadows also known as 6409 South Meadows Boulevard. (Requested by Mr. Thomas B. Watts, agent for N.P.C. Realty Company, representing Mr. Jesse Rosales, owner of Lot 17, Block 11)

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Mayor Friedman

Noes: None

Not in Council Chamber when roll was called: Councilmember Trevino

#### CONTRACTS AWARDED

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

TEXAS EMULSION, INC.  
1103 Perry Brooks Building  
Austin, Texas

- Emulsified Asphalt, Street and Bridge Division.  
12 Months Supply agreement including an option for a three months extension.  
Items 1 and 2, Estimated \$96,250.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

WHITE'S MINES, INC.  
116 East Travis  
San Antonio, Texas

- Aggregates, Grades 3 and 5, Street and Bridge Division.
- 12 Months Supply Agreement, including option for 90-day extension.
- Items 1 and 2, Estimated \$49,420.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contracts:

Bid Award:

- Air Switches, Electric Department

WESTINGHOUSE ELECTRIC SUPPLY  
9230 Research Boulevard  
Austin, Texas

- Item 1 - 2 ea. @ \$2,551.00
- Total \$5,102.00

MORGAN POWER APPARATUS  
c/o Granger & Company  
3317 Montrose  
Houston, Texas

- Item 2 - 2 ea. @ \$2,774.00
- Total \$5,548.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

WORTHINGTON PUMP CORPORATION  
401 Worthington Avenue  
Harrison, New Jersey

- Repair of Boiler Feed Pump, Unit No. 1  
Holly Power Plant, Power Production  
Division - \$11,250.00

Councilmember Linn asked the age of the boiler feed pump in question. Mr. R. L. Hancock answered it was 17 years old and repairs necessary were due to normal wear. The modifications are to the stationary part of the pump. City Manager Davidson pointed out that cost of a whole new unit is around \$100,000.00. Mr. Hancock said the pump should carry a new pump warranty when the repairs are completed.

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

AUSTIN ROAD COMPANY  
428 East Anderson Lane  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM, East  
Riverside Drive Improvements from  
Summit Street to East of Pleasant  
Valley Road - \$1,438,616.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

BURNUP & SIMS OF TEXAS  
P. O. Box 9086  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM, Pleasant  
Valley Road and East 7th Street,  
Drainage Improvements from Boggy  
Creek to Calles Street - \$56,290.30

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

J. T. WAGGONER CONSTRUCTION COMPANY  
P. O. Box 17036  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM, Exposition  
Boulevard, Street & Drainage Improve-  
ments from Bridle Path to Windsor Road  
- \$88,657.79.

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

N. L. LEASE SERVICE  
P. O. Box 506  
Cedar Park, Texas

- CAPITAL IMPROVEMENTS PROGRAM, Mustang  
Chase 8" Wastewater Main to provide  
service to newly annexed area -  
\$50,411.00.

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

TALON CONSTRUCTION COMPANY  
16600 Addison Road  
Addison, Texas

- CAPITAL IMPROVEMENTS PROGRAM - Boggy  
Creek East Lift Station to replace two  
existing overloaded lift stations -  
\$1,409,800.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Himmelblau questioned the above item. She said, "The low bid was by an out of town company, and I understand we take the best viable low bid, there was not much difference..but then later on we always see change orders. This worries me when we have an Austin company that's not much under the bid and then in about six months we get a change order on this." City Manager Davidson said there was no basis to deny the award to the lowest and best bidder, which is Talon Construction Company. He went on to say that there are change orders submitted by local companies too. Each and every change order, he said, is scrutinized when submitted by a contractor. Councilmember Himmelblau requested a six-month report on this project be provided.

Councilmember Linn moved that the Council adopt a resolution to award the following contracts:

Bid Award:

- Fire Hose, Fire Department

LOREYS FIRE PROTECTION  
4407 Sinclair  
Austin, Texas

- Items 1 and 2 - \$9,296.00

RUBBER CORPORATION OF AMERICA  
2545 North Broad Street  
Philadelphia, Pennsylvania

- Item 3 - \$131.40

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

INTERNATIONAL BUSINESS MACHINES  
1609 Shoal Creek Boulevard  
Austin, Texas

- Extended Term Plan, Two-Module Disk Storage Unit, Data Systems Department. Two Year Extended Term Plan including options for three one-year extensions. Item 1, 1 ea. @ \$1,739.00/month

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

WATSON DISTRIBUTING COMPANY  
9111 Broadway  
San Antonio, Texas

- Three Wheel Industrial Trucks, Vehicle & Equipment Services Department.  
Item 1 - 2 ea. @ \$2,291.73  
Item 2 - 1 ea. @ \$3,394.40  
Item 3 - 3 ea. @ \$35.00  
Total \$8,082.86

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

CONLEY-LOTT-NICHOLS MACHINERY  
COMPANY  
5300 SE Loop 410  
San Antonio, Texas

- Trailer Mounted 175 CFM Air Compressor, Vehicle & Equipment Services Department  
Item 5, 1 ea. - \$7,421.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn asked Mr. Curtis Johnson if the above item was going to be used by his department. She commented that there had been a number of delays. Mr. Les Rogers replied that any delays caused were because this item had been sent along with several others, before the Construction Advisory Committee. After they cleared the item for purchase, there were no problems of delay. "So," said Councilmember Linn, "there were no problems of overload at the Govalle Plant because we didn't have an air compressor?" It was explained that this was a portable type air compressor used to operate jack hammers and

various air tools at various locations. It has nothing to do with the direct aeration of the facilities in the treatment plant.

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

BILL GASTON BOATS & MOTORS  
9185 Research Boulevard  
Austin, Texas

- Lake Patrol Boat, Vehicle & Equipment  
Services Department.  
Item 1 - 1 ea. - \$6,700.00

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Trevino questioned the purchase of an 8-cylinder boat when a 6-cylinder boat would have been less expensive. He wanted to know if the extra power was justified. City Manager Davidson explained that if the engine was too small in a boat this size, there is a tendency for the motor to wear out too quickly.

Councilmember Linn moved that the Council adopt a resolution to award the following contracts:

Bid Award:

- Reflective Sheeting, Numbers, Letters  
& Emblems, Urban Transportation &  
Vehicle Equipment & Services Departments

MINNESOTA MINING AND MANUFACTURING  
COMPANY  
3M Center  
St. Paul, Minnesota

- Items 2-4, 6-9, 12, 13, and 17-33 -  
\$58,788.65

SUPERIOR TECH MARK CORPORATION  
8820 Diplomacy Row  
Dallas, Texas

- Items 1, 5, 10, 11, 14, 15, and 16 -  
\$2,704.25

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Linn moved that the Council adopt a resolution to award the following contract:



GRAYBAR ELECTRIC COMPANY  
7434 North Lamar  
Austin, Texas

- Traffic Signal Poles, Urban Transportation Department.
- Item 1 - 40 ea. @ \$738.49
- Item 2 - 50 ea. @ \$682.64
- Item 3 - 5 ea. @ \$1,239.79
- Total \$69,870.55

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

#### STREET CLOSING

Councilmember Linn moved that the Council adopt a resolution to temporarily close the 2400 block of San Gabriel Street from 3:00 p.m. to 6:00 p.m., April 1, 1977, as requested by Mr. Keith Montgomery of Sigma Alpha Epsilon Fraternity. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None

#### SOILS INVESTIGATION SERVICES

Councilmember Himmelblau moved that the Council adopt a resolution to approve the firm of FRANK BRYANT & ASSOCIATES for soils investigation services for the design of Congress Avenue Improvements. CAPITAL IMPROVEMENTS PROGRAM. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Lebermann, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: Councilmember Linn

#### CHANGE ORDER

Councilmember Himmelblau moved that the Council adopt a resolution to approve Change Order No. 16 in the amount of \$324,517.00 for Walnut Creek Wastewater Treatment Plant Improvements. (CAPITAL IMPROVEMENTS PROGRAM) The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann  
Noes: None

#### EMERGENCY MEDICAL TECHNICAL TRAINING FOR CAPCO

Councilmember Trevino moved that the Council adopt a resolution to authorize submission of a grant application to HEW in the amount of \$67,268.00 to upgrade pre-hospital care in the CAPCO region through Emergency Medical Technician training of ambulance personnel in the region. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann, Lebermann, Linn

Noes: None

#### LOS ALTOS CONDOMINIUMS

Councilmember Himmelblau moved that the Council adopt a resolution to instruct the staff to proceed with Zoning Case C814-76-001: Harvey H. Lane and John Van Winkle, Westlake Drive, from Interim "AA" Residence, 1st Height and Area to Planned Unit Development known as "Los Altos Condominiums." The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann

Noes: Mayor Friedman, Councilmembers Linn, Trevino

(Prior to the meeting, Councilmembers had received the following memo from Jerry L. Harris, City Attorney)

"The above site was annexed to the City of Austin on July 28, 1976. Under the City of Austin's zoning ordinance the property took on an interim classification of "AA," First Height and Area District. The owners then requested that the property be zoned as a Planned Unit Development. The Planning Commission denied the request and the case was considered by the City Council on January 27, 1977.

Although a petition against the zoning was presented by surrounding property owners, I had indicated to the attorney for the property owners, Mr. John Scanlan, that the petition would not be a basis for requiring that the applicant receive six (6) favorable votes of the City Council because it was held in Appolo Development, Inc. v. City of Garland, 476 S. W. 2d 365 (Tex. Civ. App. - Dallas, 1972, writ ref'd n.r.e.) that a petition against a zoning change does not require that the applicant get six (6) favorable votes if the property bears only a temporary zoning classification. A summary of the Appolo case is attached hereto as Exhibit "A." However, I indicated to the attorney for Los Altos, Mr. Stuart Henry, and the attorney for the opponents, John Scanlan, that six (6) votes would be required for approval of the zoning because our City Code provides that a denial of zoning by the Planning Commission can be overridden only by six (6) votes of the City Council.

Before the City Council, the Los Altos application received five (5) favorable votes and two (2) negative votes. Therefore, pursuant to the City Code provision, if valid, the Los Altos application was denied. However, about two weeks after City Council action, the Supreme Court upheld a Court of Civil Appeals opinion which declared that a zoning code provision, requiring a three-fourths favorable vote of the Council to override a denial of zoning by the Planning Commission, was invalid. A summary of this case, City of San Antonio v. Lanier, 542, S. W 2d 232, (Tex. Civ. App. - San Antonio, 1976, writ ref'd n.r.e.) is attached hereto as Exhibit "B."

"Since the City of San Antonio and Appolo Development, Inc., cases clearly hold that Los Altos was not required to receive six (6) favorable votes of the City Council but only a majority vote, it is my opinion that the Los Altos application was approved on January 27, 1977, when that application received five (5) favorable votes of the City Council."

## TEMPORARY STREET CLOSING

Councilmember Himmelblau moved that the Council adopt a resolution to temporarily close the 2400 block of Pearl Street, from 4:00 p.m. to 6:30 p.m., Friday, March 25, 1977, for a street party requested by Lamda Chi Alpha Fraternity. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

## SPEED ZONES ON DANCY STREET

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING SECTION 21-41 OF THE AUSTIN CITY CODE OF 1967, MAKING A CERTAIN ADDITION TO SUBSECTION (b) THEREOF, THEREBY DECLARING THE MAXIMUM PRIMA FACIE SPEED LIMIT UPON THAT CERTAIN STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF AUSTIN, PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS" (VERNON'S ANN. CIV. ST., ART. 6701d); REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None  
Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the ordinance had been finally passed.

## ZONING ORDINANCES

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A 40,871 SQUARE FOOT TRACT OF LAND, LOCALLY KNOWN AS 3801-3811 SOUTH LAMAR BOULEVARD; 2317-2325 PANTHER TRAIL; AND 3800-3808 VICTORY LANE, FROM INTERIM "A" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE. (Lynn Storm, C14-76-118)

Councilmember Trevino moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the ordinance had been finally passed.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING THE USE MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:  
LOT 2, AND THE WEST 54 FEET OF LOT 3, OUTLOT 78, DIVISION "D," JOSEPH LEE SUBDIVISION, LOCALLY KNOWN AS 406 WEST 38TH STREET, AND ALSO BOUNDED BY AVENUE "B," AND WEST 38 1/2 STREET, FROM "A" RESIDENCE DISTRICT TO "B" RESIDENCE DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (Junior Helping Hand Home for Children, C14-76-111)

Councilmember Trevino moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the ordinance had been finally passed.

#### SMOKING ORDINANCE

Mayor Friedman brought up the following ordinance for first reading:

AN ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF THE CITY OF AUSTIN OF 1967, BY AMENDING SECTION 12-64(r); ADDING THERETO A SECTION 12-41.1; PROHIBITING USE OF TOBACCO IN ANY FORM IN AREAS OF FOOD PRODUCT ESTABLISHMENTS WHERE UNPACKAGED FOOD IS PREPARED, PACKAGED, OR DISPLAYED; PHIBITING USE OF TOBACCO IN ANY FORM IN SERVING LINES, AT SERVING COUNTERS AND AT SELF-SERVICE COUNTERS WHERE FOOD IS UNPACKAGED, EXCEPT AT SERVING COUNTERS WHERE CUSTOMER SEATING IS PROVIDED IN FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR POSTING OF NOTICE OF SUCH PROHIBITIONS; AMENDING SECTION 12-37 BY ADDING THERETO A DEFINITION FOR "UNPACKAGED FOOD"; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the first time, and Councilmember Hofmann moved that it be passed to its second reading. The motion, seconded by Councilmember Trevino carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmember Hofmann

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the ordinance had been passed through its first reading only.

#### HARLEM CAB COMPANY FRANCHISE

Mayor Friedman brought up the following ordinance for its second reading:

AN ORDINANCE AMENDING SECTION 1 OF AN ORDINANCE ENTITLED "AN ORDINANCE GRANTING TO HARLEM CAB COMPANY, A TEXAS CORPORATION, A FRANCHISE TO OPERATE A TAXICAB SERVICE IN THE CITY OF AUSTIN, AND PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UPON AND UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED," FINALLY PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN ON SEPTEMBER 20, 1951, RECORDED IN ORDINANCE BOOK "Q," AT PAGES 660-662 OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, AS FURTHER AMENDED BY ORDINANCE NOS. 701029-C AND 750828-B; BY AMENDING SECTION 1 THEREOF PRESCRIBING THE NUMBER OF TAXICABS AUTHORIZED TO BE OPERATED, PROVIDING FOR PUBLICATION AND THREE (3) SEPARATE READINGS. (from 38 to 48 permits)

The ordinance was read the second time, and Mayor Pro Tem Snell moved that the ordinance be passed to its third reading. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmember Hofmann, Lebermann

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the ordinance had been passed through its second reading only.

#### CITY RETIREMENT PLAN

Ed Golden, Chairman of the City Retirement Board, called attention to copies of the revised Pension and Retirement Ordinance. The suggested revisions to the Ordinance include changes made in 1972 and 1973 by the Council which were never put into Ordinance form. The Committee, within the Retirement Board, has presented these suggestions and revisions to the Retirement Board and have the approval for the changes. He pointed out that the changes will not increase the cost of the employee or employer contributions.

Councilmember Lebermann moved that the Ordinance be brought back next week with revisions to the Pension and Retirement Ordinance. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Lebermann, Linn

Noes: None

Not in Council Chamber when roll was called: Councilmembers Himmelblau,  
Hofmann

Mayor Pro Tem Snell extended his thanks to all the members of the Retirement Board and all those who worked so hard to bring to the Council a very workable retirement program.

#### RECESS

Mayor Friedman recessed the meeting at 12:15 p.m. and said they would resume the Agenda at 2:00 p.m.

#### EXECUTIVE SESSION

Mayor Pro Tem Snell called the meeting back to order at 2:00 p.m. and said the Council had met in an Executive Session for the purpose of making an appointment to the Hospital Study Team. He noted that Mayor Friedman would be absent.

#### Hospital Study Team

Councilmember Hofmann moved that the Council make the following appointments to the Hospital Study Team:

Dr. Milton W. Talbot, Jr.	Chief of Staff
Dr. D. A. Baggett	Immediate Past Chief of Staff
Mr. Jim Pfluger	Chairperson, Hospital Board
Ms. Donna Knapp	Vice-Chairperson, Hospital Board
Councilmember Himmelblau	
Councilmember Trevino	

The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino

Noes: None

Absent: Mayor Friedman

#### DISCUSSION OF ELECTRIC UTILITY CONSULTANTS

Mrs. Shudde Fath appeared before the Council to discuss electric utility consultants, load factors and anti-flat rate arguments from the City Administration in 1974. She urged the Council to pass a resolution requesting the City administration to use City employees for a computer run to determine the percentage decreases or increases by customer classes if a flat rate had been in effect during the 12 months ending on February 28, 1977, and report complete results back to this Council on March 31. The computer run should assume a \$5.00 monthly minimum bill and then determine the flat rate by dividing the remaining dollars billed for the past 12 months by the remaining kilowatt hours billed. The assumed flat rate plus the \$5.00 monthly minimums must produce the same amount of total dollars as did existing rates. This computer run, said Mrs. Fath, will very likely show the need for a grandfather clause to permit all electric customers without heat pumps to retain present all-electric rates for at least 10 years and at least the six cold months. For that reason, she continued, there should be at least two more computer runs; one, keeping existing rates for all-electrics only from November to April, and the other keeping existing rates for all-electric for the entire year.

Motion - Died

Councilmember Linn moved that the staff be instructed to perform the initial computer run of Mrs. Fath's proposal and be brought back to Council. There was no second to the motion, and it died for lack of a second.

## CITY EMPLOYEE RETIREMENT SYSTEM ADJUSTMENTS

Councilmember Lebermann informed the Council that during a conversation with State Representative Sarah Weddington, they had discovered a similar concern about City, state, district and County employees and their movement between these government bodies. Their concern was the retirement system...where the employee has moved from a similar job with the State of Texas into one with the City of Austin and vice versa. At present, the employees are not eligible for a reciprocal retirement plan. Councilmember Lebermann said he felt it would strengthen and further professionalize government if the term "portage" were introduced into the retirement system, whereby a small portion of the retirement activity with the City could be translated into the total vesting time at the State or vice versa, or into the County or district, without the employee losing the participation. At present, continued Councilmember Lebermann, there is House Bill 617, introduced by Representative Wyatt, which contemplates the same sort of reciprocity, but in the major state-wide systems. Representative Weddington is seeking to permit the City Council of Austin to make the decision to let our employees participate also.

ABIGAIL HAVENS, Representative Weddington's aide, appeared before the Council in her behalf to present the following statement:

"There are a variety of retirement systems which cover Texas public employees: State Employees Retirement System (SERS), Teacher's Retirement System (TRS), Texas Municipal Retirement System (TMRS), County and District Retirement System (CDRS) and independent retirement systems located in six of the major cities of the state. With one exception, receipt of retirement benefits for any of these systems requires a lengthy period usually ten to fifteen years in order to vest within that system. That one exception is the reciprocation between the SERS and the TRS.

The House State Affairs Committee is presently considering HB 617, which seeks to incorporate TMRS and CDRS within this umbrella structure of reciprocity. I propose to amend that legislation to provide the option to Austin to participate in the reciprocal agreement. As the Capitol City, Austin serves as the residence and focal point for over 52,000 public employees representing all levels of government services within the state. In no other area of Texas is this concentration of public employees so dramatically reflected. By providing Austin with the option of participating in this increased portability among public employee retirement systems, we can improve the overall training and experience of our employees, enhance our affirmative action and recruitment programs, provide a training ground for individuals seeking to develop experience, and create a competitive alternative to private sector employment.

I believe that the extension of reciprocity or portability among public employees will prove beneficial both to Austin and the entire state."

Councilmember Himmelblau moved that the Council vote to go on record in support of Representative Weddington's amendment to House Bill 617. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Pro Tem Snell

Noes: None

Absent: Mayor Friedman

#### PUBLIC HEARING

#### RECOMMENDATIONS FROM THE MAYOR'S COMMISSION ON ELECTRIC RATES

Mayor Pro Tem Snell, at 2:30 p.m., opened the public hearing on the recommendation from the Mayor's Commission on Electric Rates to discuss:

1. Creation of a permanent Citizen's Electric Utility Commission.
2. Adoption of Service Regulations and Policies regarding the relationship between the Electric Utility and its customers.

Mayor Pro Tem Snell reminded the audience that this was a public hearing only and that no decision would be made.

MR. TERRY SASSER, Chairman, Mayor's Commission on Electric Rates, told the Council that the proposal to establish a permanent electric commission for Austin is of the greatest importance to all people who are customers of our electric service area. He said he agreed with the opinion that we have too many Boards and Commissions but felt the place to start cutting was not with a proposed Electric Utility Commission. He pointed out that his Commission had worked diligently since July 1975 to help understand and learn and recommend ways where they might conscientiously direct and institute changes beneficial to the common consumer of the electric power service within our area. He said they had encountered less than a complete picture in areas that they wanted to study. The Commission has come up with many suggestions which he feels should be addressed by the Council, one of which was reconstruction of a rate structure, which as laymen they were not qualified to do. He said even the City's own Electric Department admits they lack the expertise to do the same. Mr. Sasser feels the Commission has brought to light the inequities in the system and with the help of a consulting firm have caused a 7% decrease in our present electric bills, which is the first in over 20 years. He said they, as a Commission, have only scratched the surface. The gross revenue for the current fiscal year will be about \$130 million and the projection for the next fiscal year will be over \$140 million even with the fuel adjustment clause decrease. Recent problems with fuel shortage and price escalations, state regulations and enormous capital investments have made the electric utility a more intricate operation than ever before.

Because governing the electric utility is only one of many City Council functions, he said, it is impossible for even the most dedicated Council members to devote the amount of time required to determine electric utility policies. The Planning Commission has advocated the creation of an Electric Board to advise the Planning Commission and the City Council on the Electric Utilities Capital Improvements Program. The Mayor's Commission on Electric Rates joins in recommending establishment of a permanent electric utility commission which can



advise the City Council on matters relating to the electric utility. It would be the duty of such a commission to review data and submit recommendations to the Council on policies, as well as to the Planning Commission and Council concerns with utility projects being proposed.

At least once every five years, Mr. Sasser continued, the Commission could conduct a comprehensive review of the Electric Utility Department and would submit a written report of its findings and recommendation. Also, he said, the Commission would conduct a public hearing at least once every six months to take citizen comments and suggestions and grievances. The Commission would sponsor and promote programs to conserve energy and inform the public of existing policies and procedures of the Electric Utility Department.

Mr. Sasser pointed out that the Commission would duplicate in some areas other departments, job classifications or City Board functions. This, he felt could be corrected and compromised.

Mr. Sasser noted that he wanted to make a change in the proposed ordinance in Section 3.f. "It ~~(shall)~~ may make recommendation to the City Council prior to final Council action on any policies, procedures, or activities of the Electric Utility Department." He explained this change because the Commission should not interfere in the City Manager's job in any way.

Mr. Sasser then suggested that the Council listen to Mr. Mel Waxler's presentation concerning service regulations. He also wanted City Manager Davidson to read his report and then have either Mr. Sasser or Mr. Waxler give their views. This, he said, would allow the Commission to fit their needs to those that the City Manager wants.

Mr. Davidson stated he was willing to discuss any part of what he submitted to the Council but he did not feel it was appropriate to try to negotiate compromises during the Council meeting. The consultant who is now doing the rate study has been given certain directions as approved by the City Council and he said whatever is decided by the Council in connection with these service regulation proposals is going to have to result in a change of direction for the Touche Ross firm. He continued that there was no problem as long as the Council and everyone involved understood what those changes were to be. He felt it would not do everyone or the issue at hand justice to discuss the matter during the course of an afternoon. Mayor Pro Tem Snell said it appeared to him that it would be better to have a work session rather than a public hearing. Mr. Davidson said he also felt a work session would be an appropriate way to handle this. Mr. Sasser said the Commission agreed, and Councilmember Lebermann said, "As a Council, we agree." Mayor Pro Tem Snell said he would still like to hear from any citizens attending the meeting that day.

THOMAS J. HARWELL, private citizen, said he felt like it was correct when the Electric Department head said he did not have expertise. He inferred it might be feasible to look hard at the department head, R. L. Hancock. He went on to say that Austin had the dubious honor of having the highest electric rates in the nation.

HANK PALMA appeared before the Council to say he was extremely annoyed that the Council was considering the establishment of one more commission. He said the City Manager, under our form of government, was responsible for advising the Council on all matters pertaining to the City of Austin. He strongly recommended that no action be taken by the City Council in the creation of the

new commission. He also said the proposal for a Commission on Electric Rates should be left to a new mayor and a new Council after the election.

MEL WAXLER, member of the Mayor's Commission on Electric Rates presented the following report to the Council:

"One of the first regulatory actions taken by the new Public Utility Commission of Texas was the adoption of Service Regulations. These regulations attempt to set out the basic rights and liabilities of utility customers. It is highly desirable to establish clear rules by which the relationship between a utility and its customers should be governed. The Mayor's Commission on Electric Rates strongly urges the adoption of the following proposed rules. They are similar to the rules of the Public Utility Commission, with the following major modifications:

1. The addition of provisions requiring notice to customers of their rights.
2. The omission of provisions requiring a customer to give up the right to dispute the amount due if the customer enters into a deferred payment plan.
3. The addition of a subsection providing that service may not be terminated on a disputed bill.
4. The addition of provisions for specific notice and termination procedures and appeal before an independent hearing officer.
5. Lowering the maximum deposit from 1/6th to 1/12th of the estimated annual bill.
6. Changing the time for establishment of credit from 12 to 8 months and allowing a credit guarantee by a current customer of the Austin Electric Utility with a good payment record.
7. Forbidding completely the terms "gross and net billing" or other terms implying discount for prompt payment.

CHARLES MCCOUGHLIN appeared as an electric user only. He lives outside of the City of Austin. His complaint was the system of billing. He said his due date for billing is the 27th of the month and he gets paid once a month, which is on the first. This causes a hardship for him.

JAMES JOSEPH, JR., appeared before the Council to ask why the present Council should railroad the issue of the Citizen's Electric Commission. Council-member Linn asked what he meant by "railroad." At this point, Mayor Pro Tem Snell asked that politics be kept out of the discussion. Mr. Joseph pointed out that his complaint was this issue being discussed at election time. He felt it should be postponed until after the election, and then heard at a night meeting.

DORIS HILLIARD stated that if a Commission is needed to get what we need as a people then we should have a Commission, but if it's not, then it should be left out, but, she said, "We sound like little petty children arguing."

OTTO ORSAK said he felt this was not the best time to establish a permanent electric utility commission. He felt the decision should be made after the consulting firm gives its report and after all the policies concerning electric rates have been established.

RUTH EPSTEIN, Travis County Democratic Women's Committee, quoted a letter written in 1970 by Erwin Salmanson, an attorney, who she had consulted on the legality of the finance charge: "The ordinance sets out the net rate and then adds 10% as the late charge, that's usury. To dismiss it by saying it is rather simply a reasonable way of providing a rate of payment if payment is made within a prescribed period is begging the question." Ms. Epstein said nobody has disputed that we have a late charge and not a discount. She said the income from the late charge is still listed in the City budget, and feels it should have been remedied by now. She repeated a proposal her organization made about a year ago before the Mayor's Electric Commission, and that is, they are willing to accept 1-1/2% per month late penalty instead of the present usury charge. She was referring specifically to Item 7 of the Service Regulations.

ERNEST HAWKINS, a private citizen, said he agrees with the creation of the proposed Commission. He said he felt the Council should have night public hearings and that he agreed with Mrs. Fath's request for a study.

ROYAL MASSET, speaking for the Austin Citizen's League, was there to voice their opposition to the establishment of a utility commission. He said they felt it would be another layer of bureaucracy and another burden on the taxpayer. He felt the kind of expertise which is required to make the decisions could be best handled by the administration.

WALLY REW, Executive Director of the Association of Builders and Contractors, speaking for his association, said every incoming Council should have the inalienable right to make its own mistakes and requested the hearing be postponed.

CHARLES D. GOULDIE appeared before the Council to express his opinion that any decision concerning a new electric commission should be made by the new Council.

Terry Sasser, Chairman, Mayor's Commission on Electric Rates, returned to recommend that if they could have a productive work session and then come back to the Council, he thought it would be feasible to have the present Council appoint one-half of the commission and the new Council appoint the other half. Councilmember Linn wanted to make it clear for the interested participants and listeners the date when the Mayor's Commission was established. Mr. Sasser answered, "July of 1975." How many meetings have you had at night, she asked, with citizen input? Mr. Sasser said he was not sure of the number but there have been many, many public hearings and the Commission has met almost weekly for the past year. Councilmember Linn repeated, "Night meetings, so that every citizen had an opportunity to come down and testify? And those meetings were publicized?" "Yes, Ma'am," replied Mr. Sasser. "So this is no rush job?" asked Councilmember Linn. "Not hardly," Mr. Sasser replied.

JIM FERRIS, a citizen, asked how the meetings were widely publicized. Mayor Pro Tem Snell answered that there always is an agenda put out for public information; there are newspaper articles, also.

Tom Russ asked, "If this is a public hearing, I wonder why the public didn't know about it? I was informed last night by someone who is interested, and one can't read all the newspapers and find something hidden in some little corner. My time is pretty well taken, if I hadn't been called last night, we wouldn't have had anyone here."

Mayor Pro Tem Snell thanked those who expressed their opinions. He said he was sorry Mayor Friedman was not there to decide what he would like to do, but he would suggest they have a public hearing and hold some meetings at night, whatever the wish of the public. Councilmember Linn asked if the City Manager's office could contact the Mayor's Commission and the Council members to find out an agreeable date for a work session. After some discussion, City Manager Davidson said he would make contact and a time for a work session would be decided upon. Mayor Pro Tem Snell asked him to make certain the work session was publicized.

## MEETING ADJOURNED

The meeting was adjourned at 3:17 p.m.

APPROVED

  
Mayor

ATTEST:

  
City Clerk